



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

SOUTH CENTRAL REGIONAL OFFICE

7705 Timberlake Road, Lynchburg, Virginia 24502

(434) 582-5120 Fax (434) 582-5125

www.deq.virginia.gov

L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

Thomas L. Henderson
Regional Director

October 19, 2007

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT

ISSUED TO

Virginia Marble, Inc.

Registration Number: 30743

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1300 *et seq.* and 10.1-1185, between the State Air Pollution Control Board and Virginia Marble, Inc. for the purpose of resolving certain violations of environmental law and/or regulations. This violation was addressed in a Notice of Violations (NOV) dated April 9, 2007.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.
6. "Virginia Marble, Inc." means that this is a facility that is located in Lunenburg County and is certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

7. “Facility” means the Virginia Marble, Inc. facility, located in Lunenburg County, Virginia.
8. “Regulations” means the “State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution,” which have been incorporated into Title 9 of the Virginia Administrative Code (VAC).
9. “EMS” means Environmental Management System, which is to be established by the facility.
10. “SEP” means Supplemental Environmental Project.
11. “Subpart WWWW” means 40 CFR Part 63 Subpart WWWW, Reinforced Plastic Composite Production.

SECTION C: Findings of Fact and Conclusions of Law

Virginia Marble, Inc. is subject to Subpart WWWW and was required to be in compliance with that regulation by April 21, 2006.

Subpart WWWW §63.5805 requires a facility to comply with certain work practice standards. Among these work practice standards is a requirement that a facility use mixer covers with no visible gaps present in the mixer covers, except that gaps of up to 1 inch are permissible around mixer.

On or about August 22, 2006, Virginia Marble, Inc. learned from its consultant that the existing covers “covers” on open mixers at this facility did not meet the requires of Subpart WWWW because the covers were grated and not designed to reduce air emissions.

Virginia Marble, Inc. undertook corrective action and completed installation of mixer covers that complied with Subpart WWWW by October 28, 2006. In addition Virginia Marble Inc.’s employees were instructed to ensure that all covers are placed in the “down” position while the mixers are in operation and material is not being added.

On January 31, 2007, Virginia Marble, Inc. disclosed to the Department in its Semi-Annual MACT Compliance Report, that its mixer covers had not complied with subpart WWWW and that the company had taken corrective action.

The Department issued a Notice of Violation to Virginia Marble, Inc. on April 9, 2007 alleging the facility had violated the work practice standard of subpart WWWW.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority of §10.1-1307 D., §10.1-1309, §10.1-1184, §10.1-1316 C., and upon consideration of Va. Code §10.1-1186.2, the Board orders Virginia Marble, Inc. and Virginia Marble, Inc. agrees, to perform the actions described below and Appendices A and B of this Order. In addition, the Board orders Virginia Marble, Inc., and Virginia Marble, Inc. voluntarily agrees, to a civil charge of \$22,018.00 in settlement of the violations cited in this Order, to be paid as follows:

1. Virginia Marble, Inc. shall make a payment to the Department of \$5,505.00 of this civil charge within thirty (30) days of the effective date of this Order. Payment shall be by check, certified check, money order, or cashier check payable to "Treasurer of the Commonwealth of Virginia" and sent to:

Receipts Control
Department of Environmental Quality
PO Box 1104
Richmond, Virginia 23218

Virginia Marble, Inc. shall include its Federal Identification Number with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this paragraph.

2. Virginia Marble, Inc. shall satisfy \$16,514.00 of the civil charge by satisfactorily completing the Supplemental Environmental Project (SEP) described in Appendices A and B of this Order.
3. The cost to Virginia Marble, Inc. for the SEP shall be a minimum of \$16,514.00, as set forth in Paragraph D.2., which represents 75 percent of the total civil penalty. "Net project costs" means the net present after-tax cost of the SEP, including tax savings, grants, and first-year cost reductions and other deficiencies realized by virtue of project implementation. If the proposed SEP is for a project for which the party will receive an identifiable tax savings (tax credits for pollution control or recycling equipment), grants, or first-year operation cost reductions or other deficiencies, the net project cost shall be reduced by those amounts. The costs of those portions of SEP's that are funded by state or federal low-interest loans, contracts, or grants shall be deducted.
4. By signing this Order, Virginia Marble, Inc. certifies that it has not commenced performance of the SEP.
5. Virginia Marble, Inc. acknowledges that it is solely responsible for completing the SEP project. Any transfer of funds, tasks, or otherwise by Virginia Marble, Inc. to a third party, shall not relieve Virginia Marble, Inc. of its responsibility to complete the SEP as described in this Order.

6. Virginia Marble, Inc. shall submit quarterly SEP progress reports to the DEQ within 30 days following the end of the calendar quarter. Upon completion of the SEP, pursuant to Virginia Code §10.1-1186.2 and as described in Appendices A and B, Virginia Marble, Inc. shall within 30 days, but no later than 24 months from the effective date of the Order, provide a completion report including actual SEP costs to the Department.
7. In the event it publicizes the SEP or the SEP results, Virginia Marble, Inc. shall state in a prominent manner that the project is part of a settlement of an enforcement action.
8. The Department has the sole discretion to:
 - a. Authorize any alternate, equivalent SEP proposed by the Facility; and
 - b. Determine whether the SEP, or alternate SEP, has been completed in a satisfactory manner.
9. In the event that the SEP is not performed as described in Appendices A and B, upon the Department's determination of non-performance and within 30 days of notification by the Department, the civil charge is due in full. Virginia Marble, Inc. shall pay the amount of the SEP specified in Paragraph D.2., above, as provided in Paragraph D.1., above.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Virginia Marble, Inc., for good cause shown by Virginia Marble, Inc., or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Virginia Marble, Inc. by DEQ on April 9, 2007. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Virginia Marble, Inc. admits the jurisdictional allegations, but does not admit factual findings, and conclusions of law contained herein or that it is violating, or has violated, any federal, state, or local law, rule, regulation, standard or criterion.
4. Virginia Marble, Inc. consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

5. Virginia Marble, Inc. declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Virginia Marble, Inc. to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Virginia Marble, Inc. shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Virginia Marble, Inc. shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Virginia Marble, Inc. shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Virginia Marble, Inc. Notwithstanding the foregoing, Virginia Marble, Inc. agrees to be bound by any compliance date, which precedes the effective date of this Order.

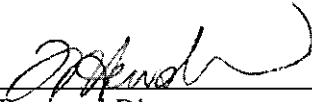
11. This Order shall continue in effect until:

- a. Virginia Marble completes all of the requirements of the Order and the Director or his designee approves the termination of the Order, which shall not be unreasonably withheld; or
- b. The Director or Board terminates the Order in his or its sole discretion upon 30 days notice to Virginia Marble.

Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Virginia Marble from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable

12. By its signature below Virginia Marble, Inc. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of October 29, 2007.



Regional Director
Department of Environmental Quality

Virginia Marble, Inc. voluntarily agrees to the issuance of this Order.

X By: W. Scott Bridgforth

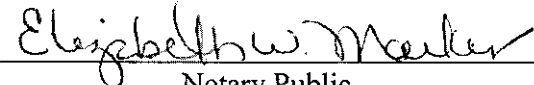
Date: October 24, 2007

Commonwealth of Virginia, City/County of Lunenburg

The foregoing document was signed and acknowledged before me this 24 day of

October, 2007, by W. Scott Bridgforth, who is
(name)

President of Virginia Marble, Inc. on behalf of the Corporation.
(title)



Notary Public

My commission expires: 4-30-10 id # 7031486

Appendix A

SUPPLEMENTAL ENVIRONMENTAL PROJECT

SECTION I: DESCRIPTION OF THE PROJECT

1. Virginia Marble, Inc. shall complete the following supplemental environmental project (“SEP”), which the parties agree is intended to secure environmental protection and improvements:

Virginia Marble, Inc. proposes to perform the following SEP: Develop a compliance focused environmental management system consistent with the VDEQ’s EMS guidance document (Appendix B). Performance of this SEP results in an environmental benefit as explained in the attached project analysis provided by Virginia Marble, Inc.

2. Virginia Marble, Inc. shall complete the SEP as follows:

- Perform a baseline EMS gap analysis;
- Develop an EMS manual that captures the core 12 elements of its EMS; and
- Perform an assessment of Virginia Marble’s EMS after its development and implementation.

This SEP will be completed within 24 months of the effective date of this Order with the final completion report to be submitted no later than 24 months from the effective date of the Order. The timeframes for each step shall be followed as outlined in the EMS guidance document (Appendix B).

The SEP is more specifically described in the SEP Analysis Addendum (herein after, the “Addendum”), attached hereto and incorporated herein by reference.

SECTION II: PROJECT COST

Virginia Marble, Inc. shall perform this SEP in partial settlement of the enforcement action initiated against Virginia Marble, Inc. for violations listed in the Notice of Violation issued on April 9, 2007. Virginia Marble, Inc. shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report. In the event that the SEP is not performed as described in this Appendix, upon notification by the Department, Virginia Marble, Inc. shall pay \$16,514.00 to the Department within 30 days of such notification according to the procedures specified in Section D of the Order.

SECTION III: REPORTS AND DOCUMENTATION

A. SEP Completion Report

Virginia Marble, Inc. shall submit a SEP Completion Report to the Department within 30 days of the completion of the SEP. The SEP Completion Report shall contain the following information:

1. A detailed description of the SEP as implemented;
2. Itemized costs, documented by copies of purchase orders and receipts or canceled checks;
3. Certification that the SEP has been fully implemented pursuant to the provisions of this Consent Order; and
4. A description of the environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible).

B. Virginia Marble, Inc. shall submit all notices and reports required by this Consent Order to Craig Nicol, Air Compliance Manager, Department of Environmental Quality, 7705 Timberlake Road, Lynchburg, VA 24502 by first class mail.

C. Virginia Marble, Inc. shall maintain legible copies of documentation of the underlying research and data for any and all documents or reports submitted to the Department pursuant to this Consent Order, and shall provide the documentation of any such underlying research and data to the Department within seven days of a request for such information.

D. In all documents or reports, including, without limitation, the SEP Completion Report, submitted to the DEQ pursuant to this Consent Order, Virginia Marble, Inc., shall by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate and not misleading by signing the following statement:

"I certify under penalty of law that I have examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment."

SECTION IV: DISPOSITION OF REPORT

A. Following receipt of the SEP Completion Report described in Section III (A) above, the Department will do one of the following: (1) accept the SEP Completion Report or (2) reject the SEP Completion Report, notify Virginia Marble, Inc. in writing, of deficiencies in the SEP Completion Report and grant an additional ten (10) days in which to correct any deficiencies.

B. If the Department elects to exercise option (2) above, it shall permit Virginia Marble, Inc. the opportunity to object in writing to the notification of deficiency or disapproval given pursuant to this section within ten (10) days of receipt of such notification. The Department and Virginia Marble, Inc. shall have a total of thirty (30) days from the receipt from the Department of the notification of objection to reach agreement on issues in contention. If agreement cannot be reached on any such issues within this thirty (30) day period, the Department shall provide a written statement of its final decision regarding such issues which decision shall be binding upon Virginia Marble, Inc. Virginia Marble, Inc. agrees to comply with any requirements imposed by the Department as a result of any such deficiency or failure to comply with the terms of the Consent Order.

SECTION V: FAILURE TO PERFORM

A. The determinations of whether the SEP has been satisfactorily completed and whether the Respondent has made a good faith, timely effort to implement the SEP shall be in the sole discretion of the DEQ.

B. Nothing in this Order shall be construed as prohibiting, altering, or in any way limiting, the ability of the Department to seek any other remedies or sanctions available by virtue of Virginia Marble, Inc. violation of this Order or of the statutes and regulations upon which this Order is based, or for Virginia Marble, Inc. violation of any applicable provision of law.

SECTION VI: MISCELLANEOUS PROVISIONS

A. Virginia Marble, Inc. agrees that DEQ may inspect the Facility at any time in order to confirm that the SEP is being undertaken in conformity with the representations made herein.

B. Any public statement, oral or written, in print, film, or other media, made by Virginia Marble, Inc. making reference to the SEP shall include the following language, "This project was undertaken in connection with the settlement of an enforcement action taken by the Department of Environmental Quality for violations of 40 CFR Part 63.5805 of the Code of Federal Regulations."

C. This Order shall not be construed to constitute the Department's approval of the equipment or technology installed by Virginia Marble, Inc. in connection with the SEP under the terms of this Order.

Virginia Marble, Inc. - 30743
CO – ASCRO6130
10/19/07
Page 10 of 17

D. Virginia Marble, Inc. agrees not to deduct any of the expenses of the SEP from its income for tax purposes.

**SUPPLEMENTAL ENVIRONMENTAL PROJECT
ANALYSIS ADDENDUM
VA CODE §10.1-1186.2.A**

Case Name: *Virginia Marble, Inc.*

Project Description: *Virginia Marble, Inc.* proposes to conduct an SEP. The project scope is the development and implementation of a compliance focused EMS.

Initial Penalty Computation, Cost of SEP and Final Penalty:

Initial penalty = \$22,018
Estimated cost of SEP = \$16,514
SEP Credit = \$16,514
Final Penalty = \$ 5,505 (25% of Initial Penalty)

SEP Not Otherwise Required by Law: Neither DEQ nor any local ordinance requires this any part of these proposed projects.

Geographic Nexus: Yes, the SEP is being undertaken at the same facility at which the violation occurred.

Qualifying Categories: This project falls under the categories of pollution reduction and pollution prevention.

Factors:

1. Net project cost: *Virginia Marble, Inc.* will incur at least \$16,514 in expenses to carry out this SEP. None of these expenses will be tax deductible.
2. Benefits to the Public and the Environment: The EMS will increase the likelihood that *Virginia Marble, Inc.* maintains compliance with applicable environmental statutes and regulations. The public and the environment benefit as a result of *Virginia Marble, Inc.'s* more robust and effective environmental management system.
3. Pollution Prevention: The EMS will promote pollution prevention through a formal program that includes goals and objectives.

Appendix B

Model Order Language for EMS SEP at a Small Business

APPENDIX B

General EMS Provision:

A comprehensive compliance-focused EMS shall be developed, implemented, and maintained by the organization. The EMS shall address, at a minimum, the 12 key elements listed below, and shall be described in an "Environmental Management System Manual."

I. Definitions

"Action Plan" means a comprehensive plan for bringing the Facility as defined below, into full conformance with the EMS provisions specified in Paragraph II.D, of this Appendix and fully addressing all Audit Findings identified in the Audit Report.

"Audit Finding" means a written summary of all instances of non-conformance with the provisions specified in Paragraph II.D, of this Appendix noted during the EMS audit, and all areas of concern identified during the course of the audit merits further review or evaluation for potential EMS, environmental, or regulatory impacts.

"Audit Report" means a report setting forth the Audit Findings resulting from the audit of a Facility by the Auditor, which meets all of the requirements set forth in Paragraph II.M, of this Appendix.

"Auditor" means the appropriately trained company personnel or independent third-party hired by Virginia Marble, Inc. to conduct an EMS audit at the Facility, and who meets the requirements set forth in Paragraph II.G, of this Appendix.

"Corrective Measures" means those measures or actions appropriate to bring the Facility into full conformance with the EMS provisions of Paragraph II.D, of this Appendix.

"Environmental Requirements" means all applicable federal, state, and local environmental statutes and regulations, including permits and enforceable agreements between the Virginia Marble, Inc. and the respective environmental regulatory agencies.

"Facility" means - Virginia Marble, Inc.

"Initial Auditor" means individual(s) meeting the requirements of Paragraph II.A, below, who are selected and/or contracted to perform the Initial EMS Review and Evaluation.

II. Environmental Management System

- A. Initial Auditor Selection. Within 60 days of the effective day of this Order, Virginia Marble, Inc. shall submit to DEQ in writing:
- the name and affiliation of the Initial Auditor(s) selected by the Facility to conduct the Initial EMS Review and Evaluation;
 - evidence that each Initial Auditor(s) satisfies the qualification requirements and that the team conducting the Initial EMS Review and Evaluation, in composite, has a working process knowledge of the Facility or similar operations, and has a working knowledge of federal and state environmental requirements which apply to the Facility;
 - a schedule, including milestones, for conducting the Initial EMS Review and Evaluation.

- B. Initial Environmental Management System Review and Evaluation. Virginia Marble, Inc. shall direct the Initial Auditor(s) identified pursuant to paragraph II.A, above, to conduct and complete an Initial EMS Review and Evaluation (commonly referred to as a “gap” analysis) for Virginia Marble, Inc.. The designated Initial Auditor(s) shall review and evaluate the current EMS or environmental auditing system, using the elements set forth in paragraph II.D, below to identify where systems or subsystems have not been adequately developed or implemented. The results of the Initial EMS Review and Evaluation shall be documented in a report prepared by the Initial Auditor(s) and provided to the Facility.
- C. Comprehensive Environmental Management System. Based on the Initial EMS Review and Evaluation results and other information, the Facility shall develop a Comprehensive EMS for the Facility addressing, at a minimum, the twelve key elements presented in paragraphs II.D, below. The purpose of developing the Comprehensive EMS is to assist Virginia Marble, Inc. in its efforts to comply with federal, state and local environmental requirements.
- D. Environmental Management System Manual. Within two hundred seventy (270) days of the effective date of this Order, Virginia Marble, Inc. shall complete the preparation of an “EMS Manual” which shall describe and document the Comprehensive EMS and contain an EMS implementation schedule for each of the described systems and subsystems not already implemented. For each of the elements identified in Paragraph II.D, below, as appropriate, the manual shall describe the EMS, in detail, by explaining how the activity or program is or will be:
- established as a formal system, subsystem or task,
 - integrated into ongoing department operations,
 - continuously evaluated and improved.

The Environmental Management System Manual shall describe respective management systems, subsystems, and tasks for the following elements:

1. Environmental Policy

- a. This policy, upon which the EMS is based, must clearly communicate management commitment to achieving compliance with applicable federal, state, and local environmental statutes, regulations, enforceable agreements, and permits (hereafter, “environmental requirements”) and continual improvement in environmental performance. The policy should also state management’s intent to provide adequate personnel and other resources for the EMS.

2. Organization, Personnel, and Oversight of EMS

- a. Describes, organizationally, how the EMS is implemented and maintained.
- b. Includes organization charts that identify units, line management, and other individuals having environmental performance and regulatory compliance responsibilities.
- c. Identifies and defines specific duties, roles, responsibilities, and authorities of key environmental program personnel in implementing and sustaining the EMS (e.g., could include position descriptions and performance standards for all environmental department personnel, and excerpts from others having specific environmental program and regulatory compliance responsibilities).
- d. Includes ongoing means of communicating environmental issues and information to all organization personnel, on-site service providers, and contractors, and for receiving and addressing their concerns.

3. Accountability and Responsibility

- a. Specifies accountability and environmental responsibilities of organization's managers, on-site service providers, and contractors for environmental protection practices, assuring compliance, required reporting to regulatory agencies, and corrective actions implemented in their area(s) of responsibility.
- b. Describes incentive programs for managers and employees to perform in accordance with compliance policies, standards and procedures.
- c. Describes potential consequences for departure from specified operating procedures, including liability for civil/administrative penalties imposed as a result of noncompliance.

4. Environmental Requirements

- a. Describes process for identifying, interpreting, and effectively communicating environmental requirements to affected organization personnel, on-site service providers, and contractors, and then ensuring that facility activities conform to those requirements (i.e., ongoing compliance monitoring). Specifies procedures for prospectively identifying and obtaining information about changes and proposed changes in environmental requirements, and incorporating those changes into the EMS (i.e., regulatory "change management").
- b. Establishes and describes processes to ensure communication with regulatory agencies regarding environmental requirements and regulatory compliance.

5. Assessment, Prevention, and Control

- a. Identifies an ongoing process for assessing operations, for the purposes of preventing and controlling releases, ensuring environmental protection, and maintaining compliance with statutory and regulatory requirements. This section shall describe monitoring and measurements, as appropriate, to ensure sustained compliance. It shall also include identifying operations and waste streams where equipment malfunctions and deterioration, operator errors, and discharges or emissions may be causing, or may lead to:
 - releases of hazardous waste or other pollutants to the environment,
 - threat to human health or the environment, or
 - violations of environmental requirements.
- b. Describes process for identifying operations and activities where documented standard operating practices (SOPs) are needed to prevent potential violations or pollutant releases, and defines a uniform process for developing, approving and implementing the SOPs.
- c. Describes a system for conducting and documenting routine, objective, self inspections by department supervisors and trained staff, especially at locations identified by the process described in a. above, to check for malfunctions, deterioration, worker adherence to SOPs, and unauthorized releases.
- d. Describes process for ensuring input of environmental requirements (or concerns) in planning, design, and operation of ongoing, new, and/or changing buildings, processes, equipment, maintenance activities, and products (i.e., operational "change management").

6. Environmental Incident and Noncompliance Investigations

- a. Describes standard procedures and requirements for internal and external reporting of potential violations and release incidents.

- b. Establishes procedures for investigation, and prompt and appropriate correction of potential violations. The investigation process includes root-cause analysis of identified problems to aid in developing the corrective actions.
- c. Describes a system for development, tracking, and effectiveness verification of corrective and preventative actions.
- d. Each of these procedures shall specify self-testing of such procedures, where practicable.

7. Environmental Training, Awareness, and Competence

- a. Identifies specific education and training required for organization personnel, as well as process for documenting training provided.
- b. Describes program to ensure that organization employees are aware of its environmental policies and procedures, environmental requirements, and their roles and responsibilities within the environmental management system.
- c. Describes program for ensuring that personnel responsible for meeting and maintaining compliance with environmental requirements are competent on the basis of appropriate education, training, and/or experience.

8. Environmental Planning and Organizational Decision-Making

- a. Describes how environmental planning will be integrated into organizational decision-making, including plans and decisions on capital improvements, product and process design, training programs, and maintenance activities.
- b. Requires establishing written targets, objectives, and action plans by at least each operating organizational subunit with environmental responsibilities, as appropriate, including those for contractor operations conducted at the facility, and how specified actions will be tracked and progress reported. Targets and objectives must include actions which reduce the risk of noncompliance with environmental requirements.

9. Maintenance of Records and Documentation

- a. Identifies the types of records developed in support of the EMS (including audits and reviews), who maintains them and where, and protocols for responding to inquiries and requests for release of information.
- b. Specifies the data management systems for any internal waste tracking, environmental data, and hazardous waste determinations.
- c. Specifies document control procedures.

10. Pollution Prevention Program

- a. Describes an internal program for preventing, reducing, recycling, reusing, and minimizing waste and emissions, including procedures to encourage material substitutions. Also includes mechanisms for identifying candidate materials to be addressed by program and tracking progress.

11. Continuing Program Evaluation and Improvement

- a. Describes program for periodic (at least annually) evaluation of the EMS, including incorporating the results of the assessment into program improvements, revisions to the manual, and communicating findings and action plans to affected employees, onsite service providers, and contractors.

- b. Describes a program for periodic audits (at least annually) of facility compliance with environmental requirements by an independent auditor(s). Audit results are reported to upper management and potential violations are addressed through the process described in element 6 above.

12. Public Involvement/Community Outreach

- a. Describes a program for ongoing community education and involvement in the environmental aspects of the organization's operations and general environmental awareness.
- E. Environmental Management System Manual. Within three hundred (300) days of the effective date of this Order, Virginia Marble, Inc. shall submit a complete EMS Manual to DEQ.
- F. Quarterly Reports. Virginia Marble, Inc. shall submit implementation status reports to DEQ on a quarterly basis (i.e., reports for periods of January-March, April-June, July-September, and October-December). The status reports shall be due within thirty (30) days after the quarter and every quarter thereafter until the Audit set forth in Paragraph II.J, is completed.
- G. Auditor Selection. Virginia Marble, Inc. shall select an independent Auditor who:
- has expertise and competence in the regulatory programs under federal and state environmental laws.
 - The Auditor shall be paid by Virginia Marble, Inc. in an amount sufficient to fully carry out the provisions of this Appendix. The Auditor must not directly own any stock in Virginia Marble, Inc. or in any parent or subsidiary, and must have no other direct financial stake in the outcome of the EMS audit conducted pursuant to this Order. The Auditor must be capable of exercising the same independent judgment and discipline that a certified public accounting firm would be expected to exercise in auditing a publicly held corporation. If Virginia Marble, Inc. has any other contractual relationship with the Auditor, Virginia Marble, Inc. shall disclose to DEQ such past or existing contractual relationships.
- H. Virginia Marble, Inc. shall identify any and all site-specific safety and training requirements for the Auditor(s), and shall ensure that the requirements are met prior to conducting the audit.
- I. Audit Plan. Virginia Marble, Inc. shall require the Auditor to prepare an EMS Audit Plan.
- J. Audit. Virginia Marble, Inc. shall require the Auditor to conduct an EMS Audit twelve (12) months after the completion of the EMS Manual, to evaluate the adequacy of EMS implementation, from top management down, throughout each major organizational unit at the Facility, and to identify where further improvements should be made to the EMS. The EMS Audit shall be conducted in accordance with ISO 14011 (First edition, 1996-10-01), using ISO 14010 (First edition, 1996-10-01), as supplemental guidance. The Auditor shall assess conformance with the elements specified in Paragraph II.D, above and with the EMS Manual, and shall determine the following:
- Whether there is a defined system, subsystem, program, or planned task for the respective EMS element;
 - To what extent the system, subsystem, program, or task has been implemented, and is being maintained
 - Adequacy of each Operation's internal self-assessment procedures for programs and tasks composing the EMS;

- Whether the Facility is effectively communicating environmental requirements to affected parts of the organization, Contractors and on-site service providers;
 - Whether further improvements should be made to the EMS;
 - Whether there are observed deviations from the Facility's written requirements or procedures;
 - And, whether continuous improvement is occurring.
- K. Designated representatives from DEQ and other environmental regulatory agencies may participate in the EMS audit as observers. Virginia Marble, Inc. shall make timely notification to designated regulatory contacts regarding audit scheduling in order to make arrangements for observers to be present. Virginia Marble, Inc. personnel or consultants may also participate in the on-site audits as an observer(s), but may not interfere with the independent judgment of the Auditor.
- L. Audit Reports. Virginia Marble, Inc. shall direct the Auditor to develop and concurrently submit an Audit Report to the Facility and DEQ for the EMS Audit as required by this Order, within sixty (45) days following the completion of the on-site portion of the audit. The Audit Report shall present the Audit Findings and shall, at a minimum, contain the following information:
- Audit scope, including the period of time covered by the audit;
 - The date(s) the on-site portion of the audit was conducted;
 - Identification of audit team members;
 - Identification of any company, facility, or consulting representatives and regulatory agency personnel observing the audit;
 - The distribution for the EMS Audit Report;
 - A summary of the audit process, including any obstacles encountered;
 - Detailed Audit Findings, including the basis for each finding and each Area of Concern identified;
 - Identification of any Audit Findings corrected or Areas of Concern addressed during the audit, and a description of the corrective measures and when they were implemented; and,
 - Certification by the Auditor that the EMS Audit was conducted in accordance with the provisions of this Appendix.
- M. Follow-Up Corrective Measures & Action Plan. Upon receiving the Audit Report, the Facility shall conduct a root cause analysis of the identified Audit Findings, as appropriate, investigate all areas of concern and develop an Action Plan for expeditiously bringing the Facility into full conformance with the EMS provisions in Paragraph II.D of this Appendix and the EMS Manual. The Action Plan shall include the results of any root-cause analysis, specific deliverables, responsibility assignments, and an implementation schedule. The Action Plan shall be submitted to DEQ within forty-five (45) days of receiving the Audit Report.
- N. Action Plan Completion Certification. Within thirty (30) days of completing all items or activities outlined in the Action Plan, [Facility Name] shall submit a written Completion Certification to DEQ